UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,540	07/02/2003	Randy D. Baxter	RSW920030049US2	3593

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EXAMINER
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ART UNIT	PAPER NUMBER
3623	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/612,540	BAXTER ET AL.
	Examiner	Art Unit	
	Neil R. Kardos	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>13 July 2009</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,3,5-21 and 24-27</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1,3,5-21 and 24-27</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/13/09, 9/17/09</u>.
4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

This is a **FINAL** Office Action on the merits in response to communications filed on July 13, 2009. Currently, claims 1, 3, 5-21, and 24-27 are pending and have been examined.

Response to Amendment

Applicant's amendments to the claims are sufficient to overcome the § 101 rejections of claims 1, 3, 5-21, and 24-26 set forth in the Examiner's Answer of March 10, 2009.

Response to Arguments

Applicant's arguments filed on July 13, 2009 have been fully considered but they are not persuasive.

Applicant first argues that Nakano in view of Official Notice does not teach computing a product assessment score by summing the assigned attribute values. Nakano teaches this limitation in figure 10, which depicts a "customer attitude rating," which is the sum of the weighted customer satisfaction scores for each customer requirement based on the score achieved by the product characteristics (see also paragraph 76). Furthermore, it is extremely old and well-known to calculate an overall score by summing scores for individual elements.

Applicant also argues that Nakano does not teach computing a product assessment score increase that will result by raising an assigned attribute value to a threshold value by using the threshold value as a replacement for the assigned attribute value in the summing of the attributes and then subtracting the product assessment score from the revised product assessment score. Figures 5-7 of Nakano depict increasing customer satisfaction by raising the value of a product

characteristic from a baseline value to a target value (i.e. the customer satisfaction level that results from replacing the baseline value with the target value). Various calculations are disclosed that teach how to calculate product assessment scores using both baseline values and also by substituting the target value for the baseline value. The result of such calculations reveals a product assessment score increase (see for example, paragraphs 59, 60, 63, 67, 68, 72, and 76).

Finally, the claimed steps for calculating a product assessment score increase are extremely rudimentary mathematical formulas, which were undoubtedly old and well known to one of ordinary skill in the art at the time the invention was made. Take the following example: Suppose a given product P has two components, x and y. The components x and y receive scores, and the overall score for the product P is determined by summing these scores (see e.g. Nakano, figure 10 with customer requirements making up a customer attitude rating). Thus, $P = x + y$. As stated above, it is extremely old and well-known to calculate an overall score by summing scores for individual elements. Thus, "comput[ing] a product assessment score . . . by summing the assigned attribute values" is known. However, x and y are variables, and thus their value can vary, which changes the resultant overall score for product P, holding true to the original formula, $P = x + y$. If the value of one of the variable x or y were to change (such as by raising the value from a baseline value to a target value, as depicted in figures 5-7), the overall value for product P would change since $P = x + y$. The claim recites determining a product assessment score P1 by summing attribute value x and y, and then calculating a new product assessment score P2 by substituting new numbers for x and y. The claim then recites subtracting the original assessment score from the new assessment score to determine the change (increase)

in the score (P2 – P1). All of these claim limitations and their combination are extremely old and

well-known in mathematics, and can be found in any basic algebra book.

Applicant's request for an Examiner's affidavit under 37 C.F.R. 1.104(d)(2) is

inappropriate because Examiner has not relied on personal knowledge in making the § 103

rejection, but rather has relied on Official Notice of what was well-known to one of ordinary

skill in the art at the time of the invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

Claims 1, 3, 7-17, 21, and 24-27 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Nakano (US 2002/0184082).

Claim 1: Nakano discloses a method of assessing products for their target market,

comprising:

- determining a plurality of criteria that are important to a target market, and at least

    one attribute to be used for measuring each of the criteria (see ¶ 26, disclosing

    converting customer requirements [e.g. criteria] into product characteristics [e.g.

    attributes]; ¶ 27, disclosing associating customer requirements with product

    characteristics; figure 2B; figure 4B; figure 9; ¶ 34, disclosing converting

customer requirements into product characteristics as a technical matter of the

product);

- specifying objective measurements for each of the attributes (see ¶ 42, disclosing

    measuring the value of the product characteristics; ¶ 43, disclosing determining

    product specifications of the product characteristics; figure 9, depicting

    measurable targets for the product characteristics);

- conducting an evaluation of the product, further comprising:

    o inspecting a representation of the product, with reference the attributes

        (see figures 4A-4D, depicting an evaluation of a family car; figures 9-10,

        depicting the results of an evaluation of a family car; ¶¶ 52, 59, and 63);

    o assigning attribute values to the attributes, according to how the product

        compares to the specified objective measurements (see figure 9, depicting

        values for the product characteristics; ¶ 42, disclosing a comparison

        analysis value, which is the measured value of the product characteristics;

        ¶¶ 43-45, disclosing outputting the estimated value of customer

        satisfaction for an actual achievement value of product characteristics; ¶¶

        49-50);

    o using programming code of a computer to programmatically compute a

        product assessment score, for the product, by summing the assigned

        attribute values (see figure 10, depicting a "customer attitude rating,"

        which is the sum of the customer satisfaction scores for each customer

requirement based on the score achieved by the product characteristics; ¶ 49);

    o   for each of the attributes for which the assigned attribute value falls below a threshold value, using programming code of the computer to programmatically compute a product assessment score increase that will result by raising that assigned attribute value to the threshold value, the programmatically computing a product assessment score increase comprising using programming code of the computer to compute a revised product assessment score for the product using the threshold value as a replacement for the assigned attribute value of the attribute in the summing and then subtracting the product assessment score from the revised product assessment score (see figures 5-7, especially figure 5, depicting the present customer satisfaction when the product characteristic has the baseline value, and the value of customer satisfaction if the product characteristic is raised to the target value; ¶¶ 48-68, describing figures 5-7);

Nakano does not explicitly disclose using programming code of the computer to programmatically generate a list of recommended actions, the list having an entry for each of the attributes for which the assigned attribute value falls below the threshold value, each of the entries providing at least one suggestion for improving the assigned attribute value and a specification of the programmatically-computed product assessment score increase for that attribute. However, Nakano at least suggests this limitation. Nakano teaches determining the

impact that an improvement of a product characteristic will have on a customer satisfaction score (see e.g. ¶¶ 48-68). Nakano implicitly teaches recommendations for product characteristics by teaching a target value for the characteristics (i.e. the recommendation is to build the product so that the product characteristic meets the target value; see figure 9).

Furthermore, Examiner takes Official Notice that it was well-known in the art at the time the invention was made to perform the claimed limitation via a gap analysis. Gap analysis is a well-known technique to compare actual performance with desired performance and to determine how to achieve the desired performance, and is commonly performed in new product development. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the claimed limitation via gap analysis in order to achieve the target product characteristic values taught by Nakano. One of ordinary skill in the art would have been motivated to do so for the benefit of improved customer satisfaction.

Nakano does not explicitly disclose performing the disclosed methodology for IT products. However, this is merely an intended use of the claimed limitation, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Nakano's methodology to evaluate IT products. One of ordinary skill in the art would have been motivated to do so for the benefits associated with utilizing Nakano's methodology in new product development (e.g. improved customer satisfaction).

Claim 3: Nakano discloses:

- prioritizing each of the attributes in view of its importance to the target market (see figure 2B, depicting customer importance ratings; figure 2D, depicting weights; figure 3; ¶ 76), ;

- assigning weights to the attributes according to the prioritizations (see id.); and

- using the weights when programmatically computing the product assessment score and the revised product assessment score (see id.).

Claim 7: Nakano at least suggests wherein a product team developing the product provides input for the evaluation by answering questions on a questionnaire that reflects the attributes (see ¶ 6, disclosing QFD executors that are people engaged in product planning and provide input for product development; ¶ 23).

Claims 8-10: Nakano does not explicitly disclose recording information about scores, recommendations, and answers to questionnaires in a workbook, including an electronic workbook. Examiner takes Official Notice that it was well-known in the research and development arts at the time the invention was made to record research and development data in a workbook, including an electronic workbook (e.g. Microsoft Excel). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to record the information gathered during the product development stages of Nakano in an electronic workbook according to well-known methods. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies gained by recording data.

Claims 11-12: Nakano discloses providing the scores and recommendations to a product

team developing the IT product (see at least ¶ 6). Nakano does not explicitly disclose an

assessment workbook. However, this deficiency has been addressed in the rejection of claims 8-

10, above.

Claim 13: Nakano does not explicitly disclose assigning a special designation to the

product if and only if the assessment score exceeds a predefined minimum product assessment

score. However, this practice is old and well-known. For example, Consumer Reports

designates products receiving a certain score as a "Consumer Reports Best Buy." Thus, it would

have been obvious to one of ordinary skill in the art at the time the invention was made to apply

old and well-known assessment designations to the products assessed by the methodology of

Nakano. This combination of known elements produces a result that would be predictable to one

of ordinary skill in the art.

Claims 14-17: Claims 14-17 are substantially similar to claim 1 and are rejected under

similar rationale.

Claim 21: Claim 21 is substantially similar to claim 13, and is rejected under similar

rationale.

Claim 24: Claim 24 is substantially similar to claim 1, and is rejected under similar

rationale.

Claim 25: Nakano does not explicitly disclose charging a fee for carrying out one or more of the conducting, recording, and using steps. However, it is old and well-known to charge fees for conducting services in order to make a profit. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to charge a fee for carrying out the methodology of Nakano. One of ordinary skill in the art would have been motivated to do so for the benefit of profit.

Claims 26 and 27: Claims 26 and 27 are substantially similar to claim 1 and are rejected under similar rationale.

Claims 5, 6, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakano in view of Korisch (US 2004/0068456).

Claim 5: Nakano does not explicitly disclose wherein conducting an evaluation is repeated at a plurality of plan checkpoints used in developing the IT component. Korisch teaches repeatedly checking to determine if a product meets predetermined specifications in order for that product to proceed to the next step (see figure 4, item 29; paragraph 154, lines 19-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to repeat the methodology of Nakano throughout the design process as taught by Korisch. One of ordinary skill in the art would have been motivated to do so for the efficiencies gained by meeting product requirements (see Korisch, paragraph 154, lines 22-24).

Claim 6: Nakano does not explicitly disclose wherein successful completion of each of

the plan checkpoints requires the product assessment score to exceed a predetermined minimum

product assessment score . Korisch teaches repeatedly checking to determine if a product meets

predetermined specifications in order for that product to proceed to the next step (see figure 4,

item 29; paragraph 154, lines 19-25). It would have been obvious to one of ordinary skill in the

art at the time the invention was made to repeat the methodology of Nakano throughout the

design process as taught by Korisch. One of ordinary skill in the art would have been motivated

to do so for the efficiencies gained by meeting product requirements (see Korisch, paragraph

154, lines 22-24).

Claim 20: Claim 20 is substantially similar to claim 6, and is rejected under similar

rationale.

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Nakano in view of Lowe, "QFD in new production technology evaluation."

Claims 18-19: Nakano does not explicitly disclose wherein the specified objective

measurements further comprise textual descriptions to be used in the step of assigning attribute

values using a multi-point scale. Lowe discloses these limitations (see col. 1-2 on page 108,

disclosing guidelines for establishing scoring values based on a four-point scale; table 1,

disclosing definitions for product characteristic levels; table 2, disclosing guidelines for

evaluation of interrelationship values; table 3, disclosing guidelines for importance scoring). It

would have been obvious to one of ordinary skill in the art at the time the invention was made to

use the guidelines disclosed by Lowe to score the attributes of Nakano.. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies and accuracies gained through standardization.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neil R. Kardos
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